

# HOUSE BILL REPORT

## SHB 1171

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### As Passed Legislature

**Title:** An act relating to pretrial release programs.

**Brief Description:** Clarifying pretrial release programs.

**Sponsors:** House Committee on Public Safety (originally sponsored by Representatives Hurst, Dahlquist, Haler and Parker).

**Brief History:**

**Committee Activity:**

Public Safety: 1/29/13, 2/14/13, 1/22/14, 1/24/14 [DPS].

**Floor Activity:**

Passed House: 2/17/14, 97-0.

Passed Senate: 3/6/14, 49-0.

Passed Legislature.

#### Brief Summary of Substitute Bill

- Prohibits pretrial release programs from accepting any person charged with a sex or violent offense who was convicted of a sex or violent offense in the prior 10 years, unless he or she paid bail to secure their release pending trial.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

**Staff:** Sarah Koster (786-7303).

**Background:**

Pretrial release is the release of the accused from detention pending trial. The state Constitution guarantees the right to bail for people except if charged with a capital offense or an offense punishable by the possibility of life in prison. This right has been interpreted as

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the right to a judicial determination of either release or reasonable bail. For capital offenses, there is no right to bail when there is evident proof or a strong presumption of the accused's guilt. For noncapital offenses which are punishable by the possibility of life in prison, bail may be denied upon a showing by clear and convincing evidence of a propensity for violence that creates a substantial likelihood of danger to the community or any person, subject to limitations as determined by the Legislature.

Offenses which are punishable by the possibility of life in prison are class A felonies, third strike offenses for persistent offenders, and second strike offenses for persistent sex offenders.

Except as described in the Constitution, a judicial officer has discretion to release a person pending trial upon the payment of bail by surety in an amount fixed by a judicial officer or on personal recognizance, with or without certain additional conditions. Such conditions can include, but are not limited to:

- placing the defendant in the custody of a designated organization agreeing to supervise the defendant;
- restricting defendant's range of travel, association, or communication with specific persons;
- mandating a specific curfew;
- imposing electronic monitoring; and
- prohibiting alcohol or drug use or possession of a dangerous weapon or firearm.

When a court releases a person charged with a violent offense on the person's personal recognizance or personal recognizance with conditions, the court is required to state on the record the reasons why the court did not require the defendant to post bail.

#### **Summary of Substitute Bill:**

"Pretrial release program" is any program, public or private, which supervises an offender released from custody prior to trial. In this definition, supervision can refer to any of a range of programs including, but not limited to, work release, day monitoring, or electronic monitoring.

A pretrial release program may not agree to supervise, or accept into its custody, an offender who is currently awaiting trial for a violent offense or sex offense, and who has been convicted of one or more violence offenses or sex offenses in the 10 years before the date of the current offense, unless the offender's release before trial was secured with payment of bail.

To correspond to the definition of pretrial release program, the bill also changes the description of an appropriate condition of pretrial release which a judge may impose on a defendant from "the defendant may be placed in the custody of a designated person or organization agreeing to supervise the defendant" to "the defendant may be placed in the custody of a pretrial release program."

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill is about violent offenders who cannot make bail being released into non-secure community release programs, such as day reporting programs, putting the community at risk. There was a famous incident last year involving a bank robbery suspect who was placed on work release and robbed another bank. In 2010 Bob Ferguson, introduced legislation in King County to place common sense limits on who cannot be released pretrial if they cannot make bail. This legislation is almost word for word the same, except that legislation only applied to the least secure pretrial release program. Bob Ferguson's legislation was found to be constitutional by the King County Attorney General. King County knows it has a problem and is working on a better risk assessment tool. This may be a problem statewide of people who cannot make bail being released into the community into non-secure programs. Dozens of people walk away from these non-secure programs every year. This is a common sense solution for a problem which has been around for a very long time.

(Opposed) None.

**Persons Testifying:** Chris Vance, King County Corrections Guild.

**Persons Signed In To Testify But Not Testifying:** None.